LEGALITY: JURNAL ILMIAH HUKUM

Journal homepage: http://www.ejournal.umm.ac.id/index.php/legality

Financial Technology: Digital Legal Challenges and Indonesia's Economic Prospects After Covid-19 Outbreak

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Article	Abstract
Keywords: Fintech; legal challenges; economic prospects **Article History** Received: Sept 29, 2022 Reviewed: Oct 1, 2022 Accepted: Nov 28, 2022 Published: Nov 29, 2022	*Online loans are one of the financing business models organized using applications on the internet, the online loan business is currently developing so fast because it offers loans that can reach a sufficiently large amount with easy terms, procedures and transaction processes, all intended to improve people's economic conditions. However, its implementation still sparks many legal problems and presents challenges for digital law in Indonesia. This study aims to study the challenges faced by Indonesian digital law due to the growth of the online loan business and to explore how the prospects of the online loan (fintech) business in improving the economic conditions of the Indonesian people. This research used empirical juridical methods, a case, and a statutory approach. The results showed that the challenges faced by Indonesian law in anticipating the growth of online businesses tainted by various legal cases require a more comprehensive rule of law in the form of legislation, thereby supporting the growth of prospects of the online loan business in an effort to improve the economy of the people of the state.*

INTRODUCTION

As businesses closed and people retreated indoors during the early months of the Covid-19 crisis, states found themselves confronted by the inadequacies of their own financial infrastructure. By 11 June 2020, three months after the World Health Organization declared a global pandemic (Rennie & Steele, 2021), the world had been paralyzed by the Covid-19 pandemic for almost 2 (two) years, which raises many unknowns and poses many economic challenges (Obi et al., 2020). Many people have lost their jobs as workers or employees in a company (Adams-Prassl et al., 2020; Al-Fatih et al., 2020), even as many as 16 million people in the United States have lost their jobs on April 9, 2020 (Lord, 2020). In contrast to the conditions above, it turns out that the digital financial business is experiencing an upward trend (Narulita & Zainal, 2022). This is because the community's need for funds to support their life and business is abundant and gives hope to the community, the presence of this digital financial business is considered to be able to revive the passion of the community business which is experiencing sluggishness due to the Covid-19 pandemic. The application of information technology in the financial industry is laden with great potential for innovation, enticing both enterprises and investors into it (Saksonova & Merlino, 2017).

Digital financial business, popular as Fintech, departed from the word "financial technology" as governed in POJK Number 13 / Pojk.02 / 2018 (POJK13) or "Digital Financial Innovation" that refers to an activity of renewal in business processes, business models and financial instruments that provide new value in the financial service sector by involving the digital ecosystem. Financial Technology actors serve as "organizers", namely all parties who organize digital financial innovations. These organizers are financial service institutions and/or other parties who carry out activities in the financial service sector (in carrying out their business activities, they are not allowed to manage portfolios or exposures, so the organizers only provide a platform to facilitate financial services).

Fintech is an economic industry consisting of companies that utilizes technology to make financial services more efficient and faster than those offered by the traditional model (Abad-Segura et al., 2020). Fintech can act as a tool or technology to facilitate the transaction process between buyers and sellers and can reduce loopholes or fraud in the transaction process (Fratiwi, 2021). Fintech is generally a start-up business founded by relying on and optimizing the use of software technology. Various types of businesses that can be carried out by financial technology providers are available in Indonesia.

First, payment, clearing, and payment system services are organized by the banking industry such as the Bank Indonesia National Clearing System (SKNBI), kartuku, Finnet, Xendit, and so on. Second, e-aggregator collects and processes data that can be used by the community to help make decisions, to provide product comparisons from prices, features, to benefits, such as *cekaja, cermati*, and *Tunaiku*. Third, risk and investment management as the financial technology provides financial planning services and e-trading and e-insurance platforms such as Bareksa, Cekpremi, and so on. Fourth, peer-to-peer lending (P2P) is the financial technology that brings together lenders (investors) with loan seekers in one platform, investors will get interest from the funds invested for example Investree, Modalku, and so on. The financial services industry in Indonesia is also significantly changing due to digital transformation development. The latter has forced new and old organizations as well as companies to innovate their value propositions and services; they also take into account international processes to invite customers (Tan et al., 2019).

The development of the fintech business in Indonesia is quite significant but has not been supported by adequate protection and legal action. It is proven that there are still many legal cases that occur in the fintech business in Indonesia, and this will have a direct influence on the development of the fintech business itself. The relationship between enforcement against illegal fintech and the improvement of the community's economy is inseparable. The more massive the government's action against illegal fintech will increase public confidence in fintech, while the government actions can be carried out preventively or repressively. While the PRC's Fintech sector has achieved unprecedented success in improving financial services, it has also created serious financial risks and social problems. The sector as a whole is still in its early stage of development (Yiping Huang, 2020). Fintechnews Singapore reported on January 4, 2022 that the latest version of the Singapore Fintech Map Identifies that of nearly 500 fintech firms and startups in the city-state, the blockchain and cryptocurrency segments are of the largest category making up 20% among all fintech companies (Singapore Fintech, 2022).

This research will focus on the digital Legal Challenge and Indonesia's economic prospects after the Covid-19 outbreak. There are several articles that discuss fintech, but has fundamental differences in both the focus of the discussion and the results of the research, including the research conducted by Suwinto Johan and Ariawan on consumer protection between consumers and non-bank financial institutions. There have not been many discussions specifically regarding the relationship between consumer protection and the financial industry (Suwinto Johan, Ariawan, 2021). Another research was conducted by Kornelius Benuf, investigating the urgency of policy-making to create legal protection for Fintech Peer to Peer Lending consumers due to the spread of Covid-19 (Kornelius Benuf, 2020). Moreover, the research by Fanky Antoneus Sorongan et.al whose original purpose was to present a case study, a descriptive analysis of the emergence of FinTech that has influenced the banking industry in the past, present, and future, particularly in Indonesia (Fanky Antoneus Sorongan,2021). Another research analyzes the effect of consumer behavior on the decision to submit multipurpose loans for funds in the science and technology sector (Sukma Irdiana, 2022). Robin Jarvis in Fintech Innovation: Review and Future Research Direction, aims to investigate how FinTech Innovations are altering and reshaping the universe of financial service providers and challenging traditional business models and infrastructures (Robin Jarvis, Hongdan Han, 2021). Finally, research by Militcyano Samuel Sapulette et.al focuses on extending the previous studies by using various proxies of fintech that represent both lending and borrowing aspect of fintech growth and considers the effects of the Covid-19 pandemic on the relationship between fintech and banks (Militcyano, 2021). This research will mainly focus on the digital Legal Challenge and Indonesia's economic prospects after Covid-19 Outbreak

METHOD

This study employed empirical juridical methods by examining social symptoms that occur in society related to applicable legal rules. The case approach was intended to observe several cases of financial technology in Indonesia, and the statutory approach dealt with a review of all related laws and regulations (Peter Mahmud Marzuki, 2017). Legal cases in the online loan (fintech) business and relevant theories are developed and analyzed in such a way using secondary legal materials, including literature from journals and scientific books discussing related research topics. Both primary and secondary sources were obtained from fintech legal cases and legal rules related to fintech respectively in order to get inductive conclusions.

RESULTS AND DISCUSSION

Fintech is a challenge for digital law in Indonesia

Law Number 11 of 2008 as amended into Law Number 19 of 2016 guarantees every person to do transactions using computers, computer networks, and/or other electronic media, this is a form of protection and legal certainty for everyone to perform both goods and services transactions, one of the transactions that use electronic media is a money loan transaction. The online loan business is essentially a market system carried out online containing complex legal problems (Markov, 2011). Online loans are part of a form of business activity between legal subjects and other legal subjects that are established in legal bonds on the basis of agreements between the two parties. Many internet service companies have a business model that relies on advertising. A user accesses a contract with a company on an appropriate web page and clicks on the consent button to confirm that the user agrees to the company's Terms of Service (Torbert, n.d.). The agreement of the parties is a very important element in a legal relationship because it states the points agreed upon by both parties who have the same responsibility to perform the content of the agreement and have legal consequences if it is not implemented.

Fintech is indeed tempting for people who need funds quickly with simpler requirements, but people do not realize that online loan transactions through this fintech company have various kinds of legal problems. In general, financial business problems (Fintech) in Indonesia can be described as follows:

1. Consumer protection issues; crime in the form of fraud is rampant today, with various modes and seductions succeeding in deceiving consumers and the perpetrators are very difficult to track because the transactions are not carried out directly, so consumers could do nothing after they figure out that they have been deceived. This happens to one of them because this fintech business can be done by anyone who escapes the supervision of the Financial Services Authority (OJK). Although in general, the Consumer Protection Law Number 8 of 1999 has provided legal protection for consumers, it has not been able to reach crimes committed through online businesses, especially those related to evidence of transactions and evidence to obtain their rights. Another problem is that there is no alternative dispute resolution agency that specifically processes fintech disputes, at least a special law recommends that fintech business dispute resolution be taken care of by the Commercial Court.
2. Consumer data protection issues; data sharing is understood in this contribution as the action of making data held by an organization (the data holder) available for re-use by other parties outside an organization (data re-users) (Brenda Espinosa Apraez, 2021). During fintech transactions, fintech institutions usually ask for several consumer documents such as Identity Cards (KTP), Family Cards (KK), Taxpayer Identification Numbers (NPWP), and so on to be sent through the application that has been provided as a condition to ensure the seriousness of consumers to make money loans and so on. However, what has been sent can be misused by certain parties either by the fintech institution itself or by certain individuals by re-using it without any rights. Discussion of the expanding scope of personal data has been brewing for quite some time in the data protection community (Purtova, 2018).

In recent years, there has been a lot of news about cases related to online loans, both large-scale loans and small loans. It is not the problem of the size of the loan that matters but the transaction containing legal problems that need serious handling because it has been proven to cause losses for one of the parties, especially the debtors. The Financial Services Authority (OJK), found that the victims of fintech and illegal investment are not only people with low education but also those with good literacy. In addition, victims affected by these illegal loans are usually people who do not have strong financial literacy (Suryono et al., 2021). On the other hand, some people borrow more than 10 fintech's at once. Public complaints, in the period from January 2020 to November 2020, were reported to reach 416-2,715. In December 2020, it jumped drastically to 6,787 services. Some examples of online loan cases that occur in Indonesia are given in the following paragraphs:

First, a teacher was entangled in a debt of IDR.35 million in 24 Pinjol (online loan) applications. Sumiati borrowed money through 19 illegal Fintech lending and five fintech lending companies licensed by the Financial Services Authority (OJK). The total was IDR. 35,000,000,- consisting of IDR. 29,000,000,- from illegal fintech lending and IDR. 6,000,000,- from licensed fintech lending. Sumiati failed to pay off the debts so it was billed by several fintech companies in a way that was not justified by law. The Head of the Malang OJK Office stated that his party had held a meeting with Sumiati. The meeting was attended by the Mayor of Malang, OJK Malang will facilitate the settlement of Sumiati loans to legal peer-to-peer lending fintech companies and coordinate with the Indonesian Fintech Funding Association (AFPI) regarding possible service violations committed by fintech companies.

Secondly; A woman named ER who works as a temporary employee in one of the hospitals in Jember was found hanging herself in her house. The reason for the suicide was that she was entangled in debt from online loan services. A strong allegation of this suicidal action was the existence of several online loan applications in her IP. There were several calls from online loan bankers and messages from ER to her mother who apologized for having a lot of debt and ER insisted that her mother sell motorcycles to pay off the debt.

Third, the debt of IDR. 8 million interest on IDR. 30 million brought on terror by Pinjol. A person applied for a loan online on a loan application of IDR. 8 million with a tenor of 9-180 days (interest 0.02%-0.08% per day). When he clicked on the fund application, there were 7-10 applications (fund providers) that suddenly disburse funds without the consent of the borrower with a tenor of 7 days and very high interest. After 5 days there was a notification via WhatsApp informing that there was a system repair so that the maturity had to be paid 5 days after the loan. He was threatened that his photos and personal matters would be spread on the WhatsApp Group and his reputation was jeopardized.

From the online loan legal cases above, there are several legal aspects that arise, namely the absence of adequate personal data protection for customers, the rampant illegal online loans, unilateral interest determination by providers without any determination and control from the government, the occurrence of intimidation from debt collectors to customers and intimidation and threats against customers by disclosing the names of customers who are considered defaulters to the public on social and electronic media without the proper dispute resolution mechanism.

Personal data protection arrangements are governed by some articles in the electronic information and transaction act. This act does not yet contain strict and comprehensive personal data protection rules (Fad, 2021; Nugroho et al., 2020). The issue of personal data protection has recently become a very central issue. Many personal data have leaked and been misused by certain parties to carry out illegal transactions with fintech providers without the consent of data owners (Pakpahan et al., 2020). Registering one's data is dangerous because if user's data is made public, other people can access and know an individual's identity (Mangku et al., 2021).

Another problem in this online loan transaction is that not all fintech companies are registered and licensed by the Financial Services Authority (OJK). If a fintech company is required to be registered in and have a permit from the Financial Services Authority (OJK), fund distribution to the public done by every unregistered and unlicensed fintech company is deemed to be unlawful. In a wider context, this rampant action done by illegal fintech companies in Indonesia has trapped and harmed many people, violating public interest or public policy. Various FinTech applications could be classified under different categories. We classify FinTech applications into four major operational business processes: i) payment, ii) advisory service, iii) financing and iv) compliance (Leong, 2018).

Various modes of illegal online loan providers in attracting their prey involve, firstly, providing an offer to borrowers without prior meeting. Secondly, the implementation of the loan is not in accordance with the terms and policies stated in the applications. Thirdly, accessing borrowers' mobile phone contacts through which disclosure of the fact that the debtors concerned fail to pay off the debts and run away with the money is spread. Fourthly; fintech providers do not collect debts according to the rules set by the Financial Services Authority (OJK). Fifth; the companies will not erase the personal data of the debtors concerned despite loan payments. Sixth, illegal online loan actors use Identity Cards (KTP) to borrow money from other illegal loan applications.

Despite the enforcement of Law Number 11 of 2008 concerning Electronic Information and Transactions as amended to Law Number 19 of 2016, it is considered insufficient to provide legal protection for online business transactions. What is very important is the legal protection of customer data that is vulnerable to misuse by certain parties. The Board of Commissioners for Consumer Protection provided by the Financial Services Authority (OJK) said that currently there are 148 fintech companies officially registered in OJK, where 45 fintechs have obtained business licenses and 10 fintechs are sharia-based. The Board of Commissioners for Consumer Protection of OJK said fintech and investment are popular in the community because the level of public literacy towards fintech is still low, people have a tendency to gain big profits without hard work, and technological advances seem to allow irresponsible people to commit fraud.

From February 2020 to February 2021, the Investment Alert Task Force (SWI) of OJK has closed 390 illegal investments and 1,200 fintech lending. This means that in one day more than 1 investment activity 3 to 4 illegal fintech companies are closed. The public is suggested to check the legality of investment companies and fintech companies before making transactions by dialing 157 to reach OJK or 081-157157157. From January 2021 to June 2021, Kominfo handled or blocked 447 illegal fintechs, and there were 191 recorded handling of file sharing, 105 applications, 76 social media, and 75 websites. Legal problems in the field of economics, especially about online businesses in the future, need to get full attention so that legal problems in this online businesses can be minimized and resolved properly, whereas the "old" law and economics confined its attention to laws governing explicit economic relationships, and indeed to a fairly limited subset of such laws (the law of contracts, for example, was omitted), the "new" law and economics recognize no such limitation on the domain of economic analysis of law (Posner, 1975).

The rapid growth of financial technology must be immediately addressed by the government by issuing regulations so that the financial technology business does not cause many legal problems. The main challenge in determining FinTech is versatility and the fact that this phenomenon is in an active stage of development. Meanwhile, national authorities must provide the legal basis for this rapidly developing market, not tomorrow, but yesterday (Rupeika-Apoga & Eleftherios, 2020). Currently, the rules governing online loans are regulated in the Financial Services Authority Regulation Number 77 / POJK.01 / 2016, has not fully provided legal protection to users of online loan services (Pardosi & Primawardani, 2020). Therefore, many obstacles, including issues in law enforcement, are still faced in regulating online loan traffic. Online loans are not only limited to being regulated to the extent of the Financial Services Authority regulations but must be regulated in a separate law. There must be clear rules in the agreement, including penalties, dispute resolution, and settlement mechanisms in the event of a business closure (Suryono et al., 2020).

The prospect of fintech for the economic improvement of the Indonesian

The results of the comparison that takes into account the Philippines showed that the number of transaction movements towards digital trend is getting bigger. According to another BTCA study, the Philippines business could save an average of USS1.52 per transaction by moving to digital payments. This would mean significant savings (Schellhase & Garcia, 2019). According to the research conducted by the Cambridge Centre for Alternative Financial; Indonesia is the second largest economy in the ASEAN region. With the attractive macroeconomic fundamentals relating to digitalization, Indonesia has a dynamic and vibrant FinTech start-up environment, with the pace of new start-ups rapidly increasing over the last three years (Cambridge Centre for Alternative Financial, 2019). The study, which gathered data from 1,385 FinTech firms in 169 jurisdictions from mid-June to mid-August, showed most types of FinTech firms reporting strong growth for the first half of 2020 compare to the same period in 2019 prior to the pandemic. On average, firms in areas including digital asset exchange, payment, savings, and wealth management reported growth in transaction numbers and volumes of 13 percent and 11 percent, respectively (The Word Bank.com, 2020).

The Chairman of the Investment Alert Task Force (SWI) of the OJK stated that online loan applications are needed by the public because they very easily grant loans compared to the formal financial sectors which require a lot of documents for verification, and they involve cost preparation, time, and a queue. The presence of peer-to-peer fintech lending contributes to the Indonesian economy because it reaches people who have not gained access to banking services, especially in remote areas. The distribution of funds to the public is directed toward productive and not consumptive distribution. Online loan providers must continue to apply risk management and credit assessment before granting applications. Moreover, providers can take advantage of machine learning technology and big data to find out the risk profile of potential customers. In the news of one of the online mass media, the Minister of Communication and Informatics stated that the landscape of the fintech lending industry in Indonesia shows promising prospects in terms of funding capacity and funding amount. The amount of loan disbursement had reached 27.2 million people until August 2021 with an investment value of USD178.48 million. (ICT Magazine: 2021). As part of the financial business, fintech is believed to have benefits for several elements of society as follows (Mangku et al., 2021):

- **Ease of financial services;**

Through this fintech, it will be easier for people to make financial transactions without having to go to the offices of financial business operators such as banks, pawnshops, and so on. By only utilizing digital technology, people can make transactions from anywhere and anytime and usually with simpler requirements (Kang, 2018).

- **Help MSMEs get lower interest-bearing business capital;**

For MSMEs that need a certain amount of fast funds, they can take advantage of this fintech with a fast process and simpler requirements, so that the business activities planned by MSMEs will be implemented faster.

The results of a study from INDEF and the Indonesian Fintech Association in 2019 obtained the results of Fintech having a positive impact on the economic growth of 0.45% and contributing to a gross domestic product of more than 60 trillion (Ulya, 2022). In terms of labor employment rate, Fintech can employ 362 thousand people both directly and indirectly (INDEF and the Indonesian Fintech Association, 2022). Likewise, the research by Ladi Wajuba Perdini Fisabilillah and Nurul Hanifa concluded that financial technology peer-to-peer (P2P) lending has a positive and significant influence on economic growth. The faster the growth of peer-to-peer lending is in Indonesia, the more positive the impact on the Indonesian economy will be, especially during the Covid-19 pandemic (Fisabilillah & Hanifa, 2021).

The potential of very promising economic growth, especially the opening of business opportunities and the huge labor employment rate, requires more intensive government intervention by arranging the life of online loans more appropriately. The growth of illegal and illegal online loan providers must be immediately put in order or more and more people will become victims, and the level of consumer confidence will further decrease and will eventually affect the economic life of the State. One more thing that must be done by the government is to synergize with the Indonesian Ulama Council (MUI) and the Ministry of Religious Affairs to allow more appropriate online loan businesses in line with Sharia, considering that online loan business people and their users are majorly Muslims.

CONCLUSION

Legal problems that occur in the online lending business involve the absence of protection of personal data, unilateral interest determination by providers without any determination and control from the government, the rise of illegal fintech, intimidating debt collection by debt collectors, and the disclosure of customers' identities for those failing to pay for their debt by providers without referring to the correct dispute resolution mechanism. All of these problems present challenges for digital law in Indonesia. In general, the presence of an online loan (fintech) business in Indonesia is considered capable of restoring the economic condition of the Indonesian people that have slumped due to the Covid-19 pandemic because online loans are seemingly preferred by the public because they use simpler terms and procedures and more time-efficient. Therefore, all problems that hinder and interfere with the online loan business must be immediately addressed by the government by establishing a more comprehensive and separate law, and it is recommended that this law be immediately formulated to allow for more appropriate online loan business that complies with Sharia.

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